

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

Respondent.

ACCUSATION IN SUPPORT OF ORDER  
BARRING STEPHANIE C. KALULU FROM  
ANY POSITION OF EMPLOYMENT,  
MANAGEMENT OR CONTROL OF ANY  
ESCROW AGENT

## I. Introduction

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**II.**  
**Violations of the Escrow Law**

2. On or about December 16, 2016, the Department of Business Oversight (Department) commenced a regulatory examination of First Gateway Escrow's books and records (2016 regulatory examination). On or about March 24, 2017, prior to the closing of the 2016 regulatory examination, First Gateway Escrow notified the Department that Kalulu had made unauthorized disbursements, causing a trust fund shortage.

3. The Department's examiner returned to First Gateway Escrow to investigate the embezzlement and discovered that Kalulu had made unauthorized disbursements from First Gateway Escrow's trust account to pay herself, her rent, and car payments.

4. The unauthorized disbursements, in the amount of \$41,717.24, were made from 2015 to 2016, during Kalulu's employment with First Gateway Escrow. Below is a table of the unauthorized disbursements of escrow funds:

<u>Escrow #</u>	<u>Amount</u>	<u>Date Check Cleared</u>	<u>Check Issued for</u>
80421-SK	\$4,450.00	06/05/2015	Rent Payment
80429-SK	\$1,835.87	07/10/2015	Rent Payment
	\$1,900.00	10/14/2015	Rent Payment
80436-SK	\$747.04	08/05/2015	Rent Payment
80441-SK	\$200.00	09/30/2015	Kalulu
80451-SK	\$3,535.97	12/09/2015	Rent Payment
80464-SK	\$1,796.00	11/12/2015	Rent Payment
	\$2,500.00	11/12/2015	Auto Down Payment
80465-SK	\$200.00	12/31/2015	Kalulu
80472-SK	\$200.00	12/30/2015	Kalulu
80491-SK	\$826.27	07/26/2016	Auto Loan Payment
80494-SK	\$1,002.00	03/03/2016	Rent Payment
80495-SK	\$1,886.00	02/26/2016	Rent Payment
80503-SK	\$4,450.00	04/25/2016	Personal Use

1		\$2,270.59	07/29/2016	Personal Use
2		\$2,000.00	08/22/2016	Personal Use
3		\$1,950.00	09/09/2016	Personal Use
4	80509-SK	\$834.00	05/05/2016	Rent Payment
5	80557-SK	\$200.00	08/11/2016	Kalulu
6	80578-SK	\$6,183.50	11/03/2016	Auto Loan Payment
7	80595-SK	\$200.00	09/30/2016	Kalulu
8	80603-SK	\$1,950.00	10/06/2016	Personal Use
9	80621-SK	\$200.00	11/25/2016	Kalulu
10	80622-SK	\$200.00	11/25/2016	Kalulu
11	80627-SK	\$200.00	11/25/2016	Kalulu

12           5.       Kalulu made unauthorized disbursements of trust funds, and made misstatements or  
13 omissions of material facts in escrow books, accounts, or files pertaining to escrow affairs, in  
14 violation of Financial Code sections 17414, subdivision (a)(1) and 17414, subdivision (a)(2), and  
15 California Code of Regulations, title 10, sections 1738 and 1738.2 as follows:

16           (a)       Escrow #80421-SK

17           On or about June 4, 2015, Kalulu issued a check for \$4,450.00 to Broadway Lofts, which  
18 was Kalulu's residence at that time. There was no authorization in the escrow file to distribute any  
19 funds to Broadway Lofts. Kalulu referenced "Unit #401, May & June + fees." Unit 401 was  
20 Kalulu's apartment number. On or about March 23, 2016, Kalulu issued a check for \$4,450.00 from  
21 First Gateway Escrow's trust account for escrow fees to cover the debit balance noted in escrow  
22 number 80421.

23           (b)       Escrow #80429-SK

24           On or about July 1, 2015, Kalulu issued a check for \$1,639.00 to Broadway Lofts. On or  
25 about July 8, 2015, Kalulu then voided the issued check. Also, on or about July 8, 2015, Kalulu  
26 issued another check for \$1,835.87 to Aimco-Broadway Lofts. Further, on or about October 7,  
27 2015, Kalulu issued another check for \$1,900.00 to Aimco. The disbursements were unauthorized,  
28 as Broadway Lofts, Aimco, or Aimco-Broadway Lofts were all associated with Kalulu's residence at

1 that time. There was no authorization in the escrow file to distribute any funds to Broadway Lofts,  
2 Aimco, or Aimco-Broadway Lofts. On or about April 27, 2016, Kalulu issued a receipt in the  
3 amount of \$3,735.87 stating that the funds were from a seller. No funds were received from the  
4 seller.

5 (c) Escrow #80436-SK

6 On or about August 3, 2015, Kalulu issued a check for \$747.04 to Aimco. The disbursement  
7 was unauthorized as Aimco was associated with Kalulu's residence at that time. There was no  
8 authorization in the escrow file to disburse any funds to Aimco. But, the final closing statement  
9 showed a disbursement to Farmers Insurance for a homeowner's insurance policy.

10 (d) Escrow #80441-SK

11 On or about September 29, 2015, Kalulu issued a check for \$200.00 to herself. There was no  
12 authorization in the escrow file to disburse any funds to Kalulu.

13 (e) Escrow #80451-SK

14 On or about December 7, 2015, Kalulu issued a check for \$3,535.97 to Aimco. The  
15 disbursement was unauthorized, as Aimco was associated with Kalulu's residence at the time. There  
16 was no authorization in the escrow file to disburse any funds to Aimco. Kalulu issued a receipt  
17 noting that State Farm as the depositor, however, no funds were received from State Farm.

18 (f) Escrow #80464-SK

19 On or about November 5, 2015, Kalulu issued a check for \$1,796.00 to Aimco. Also, on or  
20 about November 6, 2015, Kalulu issued a check for \$2,500.00 to Concept Motors. The  
21 disbursements were unauthorized, as Aimco and Concept Motors were associated with Kalulu's  
22 residence and automobile at that time. There was no authorization in the escrow file to disburse any  
23 funds to Aimco or Concept Motors. On or about June 9, 2016, Kalulu issued receipts for both  
24 transactions, but no funds were deposited.

25 (g) Escrow #80465-SK

26 On or about December 29, 2015, Kalulu issued a check for \$200.00 to herself. There was no  
27 authorization in the escrow file to disburse any funds to Kalulu.

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1 (h) Escrow #80472-SK

2 On or about December 30, 2015, Kalulu issued a check for \$200.00 to herself. There was no  
3 authorization in the escrow file to disburse any funds to Kalulu.

4 (i) Escrow #80491-SK

5 On or about July 22, 2016, Kalulu issued a check for \$826.27 to Lobel Financial. The  
6 disbursement was unauthorized, as Lobel Financial was associated with Kalulu's auto loan payment  
7 at the time. There was no authorization in the escrow file to disburse any funds to Lobel Financial.  
8 Kalulu used the property tax refund due to the borrower, that was received from First American Title  
9 Company, to pay for her auto loan installment.

10 (j) Escrow #80494-SK

11 On or about February 24, 2016, Kalulu issued a check for \$1,002.00 to Aimco. There was no  
12 authorization in the escrow file to disburse any funds to Aimco. On or about April 21, 2016, that  
13 same check was voided by Kalulu after it had already been cleared. Then, on or about January 16,  
14 2017, Kalulu adjusted the check again in order to hide the unauthorized disbursement to Aimco.

15 (k) Escrow #80495-SK

16 On or about February 23, 2016, Kalulu issued a check for \$1,886.00 to Aimco. There was no  
17 authorization in the escrow file to disburse any funds to Aimco. The notation on the receipt stated,  
18 "to be determined." No funds were deposited for this receipt.

19 (l) Escrow #80503-SK

20 From about April 22, 2016 until September 2, 2016, Kalulu issued 4 checks in the amounts  
21 of \$4,450.00, \$2,270.59, \$2,000.00, and \$1,950.00 to various individuals. The unauthorized  
22 disbursements were related to Kalulu's personal use. There was no authorization in the escrow file to  
23 disburse any funds to those individuals.

24 (m) Escrow #80509-SK

25 On or about April 22, 2016, Kalulu issued a check for \$834.00 to Aimco. The disbursement  
26 was unauthorized, as Aimco was associated with Kalulu's residence at the time. There was no  
27 authorization in the escrow file to disburse any funds to Aimco.

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(n) Escrow #80557-SK

On or about August 10, 2016, Kalulu issued a check for \$200.00 to herself. There was no authorization in the escrow file to disburse any funds to Kalulu.

(o) Escrow #80578-SK

On or about November 2, 2016, Kalulu issued a check for \$6,183.50 to Lobel Financial. The unauthorized disbursement was for Kalulu's auto loan payment. There was no authorization in the escrow file to disburse any funds to Lobel Financial. It appears that Kalulu used the funds that were withheld for the purpose of paying taxes to the California Franchise Tax Board.

(p) Escrow #80595-SK

On or about September 29, 2016, Kalulu issued a check for \$200.00 to herself. There was no authorization in the escrow file to disburse any funds to Kalulu.

(q) Escrow #80603-SK

On or about October 4, 2016, Kalulu issued a check for \$1,950.00 to a person unauthorized by First Gateway Escrow to receive funds. There was no authorization in the escrow file to disburse any funds to this person. Also, on or about October 4, 2016, Kalulu issued 3 checks in the amounts of \$7,917.84, \$6,768.68, and \$2,687.92 to Chase Credit Cards from First Gateway Escrow's trust account. On or about October 24, 2016, the checks issued by Kalulu were voided by the First Gateway Escrow. On or about January 16, 2017, Kalulu adjusted the checks to be valid, resulting in First Gateway Escrow's trust account being short \$17,374.44. On or about February 2, 2017, Chase Credit Cards refunded the licensee \$17,374.44.

(r) Escrow #80621-SK

On or about November 22, 2016, Kalulu issued a check for \$200.00 to herself. There was no authorization in the escrow file to disburse any funds to Kalulu.

(s) Escrow #80622-SK

On or about November 22, 2016, Kalulu issued a check for \$200.00 to herself. There was no authorization in the escrow file to disburse any funds to Kalulu.

(t) Escrow #80627-SK

On or about November 23, 2016, Kalulu issued a check for \$200.00 to Kalulu. There was no

1 authorization in the escrow file to disburse any funds to Kalulu.

2 6. In addition, First Gateway Escrow's trust account was short by another \$17,404.66  
3 due to Kalulu's mistakes.

4 7. The total trust shortage of escrow funds as a result of Kalulu's actions is about  
5 \$59,121.90.

6 **III.**  
7 **Applicable Law**

8 8. Financial Code section 17414 provides in pertinent part:

9 (a) It is a violation for any person subject to this division or any  
10 director, stockholder, trustee, officer, agent, or employee of any such  
11 person to do any of the following:

12 (1) Knowingly or recklessly disburse or cause the disbursement of escrow  
13 funds otherwise than in accordance with escrow instructions, or  
14 knowingly or recklessly to direct, participate in, or aid or abet in a  
15 material way, any activity which constitutes theft or fraud in connection  
16 with any escrow transaction.

17 (2) Knowingly or recklessly make or cause to be made any  
18 misstatement or omission to state a material fact, orally or in writing, in  
19 escrow books, accounts, files, reports, exhibits, statements, or any other  
20 document pertaining to an escrow or escrow affairs.

21 9. Financial Code section 17423 provides in pertinent part:

22 (a) The commissioner may, after appropriate notice and opportunity for  
23 hearing, by order, censure or suspend for a period not exceeding 12  
24 months, or bar from any position of employment, management, or  
25 control any escrow agent, or any other person, if the commissioner  
26 finds either of the following:

27 (1) That the censure, suspension, or bar is in the public interest and that  
28 the person has committed or caused a violation of this division or rule  
or order of the commissioner, which violation was either known or  
should have been known by the person committing or causing it or has  
caused material damage to the escrow agent or to the public.

...

(b) Within 15 days from the date of a notice of intention to issue an  
order pursuant to subdivision (a), the person may request a hearing  
under the Administrative Procedure Act (Chapter 5 (commencing with  
Section 11500) of Division 3 of Title 2 of the Government Code).

1 Upon receipt of a request, the matter shall be set for hearing to  
2 commence within 30 days after such receipt unless the person subject  
3 to this division consents to a later date. If no hearing is requested within  
4 15 days after the mailing or service of such notice and none is ordered  
by the commissioner, the failure to request a hearing shall constitute a  
waiver of the right to a hearing.

5 (c) Upon receipt of a notice of intention to issue an order pursuant to  
6 this section, the person who is the subject of the proposed order is  
7 immediately prohibited from engaging in any escrow processing  
8 activities, including disbursing any trust funds in the escrow agent's  
9 possession, custody or control, and the financial institution holding  
10 trust funds shall be so notified by service of the notice, accusation and  
other administrative pleadings. The prohibition against disbursement of  
trust funds may be set aside, in whole or in part, by the commissioner  
for good cause.

11 **IV.**  
12 **Conclusion**

13 Based on the foregoing, the Commissioner finds that Stephanie C. Kalulu violated Financial  
14 Code sections 17414, subdivision (a)(1) and 17414, subdivision (a)(2), and California Code of  
15 Regulations, title 10, sections 1738 and 1738.2 and it is in the best interest of the public to  
16 permanently bar Stephanie C. Kalulu from any position of employment, management or control of  
17 any escrow agent, pursuant to Financial Code section 17423.

18 WHEREFORE, IT IS PRAYED that Stephanie C. Kalulu be barred from any position of  
19 employment, management or control of any escrow agent.

20 Dated: July 10, 2018  
21 San Diego, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

22  
23 By \_\_\_\_\_  
24 Afsaneh Eghbaldari  
25 Counsel  
26 Enforcement Division  
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